

§ 1610.11 Appeals to the Legal Counsel from initial denials.

(a) When the Legal Counsel's designee, or an appropriate regional attorney, has denied a request for records in whole or in part, the person making the request may appeal within 30 days of its receipt. The appeal must be in writing addressed to the Legal Counsel or designee, Equal Employment Opportunity Commission, 1801 L Street NW., Washington DC 20507, and clearly labeled as a Freedom of Information Act appeal. Any appeal of a denial in whole or part by a Regional Attorney, must include a copy of the Regional Attorney's determination.

(b) The Legal Counsel or designee shall act upon the appeal within 20 working days of its receipt, and more rapidly if practicable. If the decision is in favor of the person making the request, the decision shall order records promptly made available to the person making the request. The Legal Counsel or designee, may extend the 20 day period in which to render an appeal for that period of time which could have been claimed and consumed by the Legal Counsel's designee, or regional attorney under §1610.9 but which was either not claimed or consumed in making the initial determination.

(c) The Legal Counsel's decision shall be in writing and signed by the Legal Counsel or designee. A denial in whole or in part of a request on appeal shall set forth the exemption relied on, a brief explanation of how the exemption applied to the records withheld and the reasons for asserting it, if different from that described by the Legal Counsel's designee, or regional attorney under §1610.10, and that the person making the request may, if dissatisfied with the decision on appeal, file a civil action in the district in which the person resides or has his principal place of business, in the district where the records reside, or in the District of Columbia.

(d) No personal appearance, oral argument or hearing will ordinarily be permitted in connection with an appeal to the Legal Counsel or designee.

(e) On appeal, the Legal Counsel or designee may reduce any fees previously assessed.

(f) In the event that the Commission terminates its proceedings on a charge after the regional attorney denies a request for the charge file but during consideration of the requester's appeal from that denial, the request may be remanded to the appropriate Regional Attorney for redetermination. The requester retains a right to appeal to the Legal Counsel from the decision on remand.

[49 FR 48040, Dec. 10, 1984, as amended at 52 FR 4902, Feb. 18, 1987; 54 FR 32062, Aug. 4, 1989; 56 FR 29579, June 28, 1991]

§ 1610.13 Maintenance of files.

(a) The Legal Counsel or designee, and regional attorneys, shall maintain files containing all material required to be retained by or furnished to them under this subpart. The material shall be filed by individual request indexed according to the exemptions asserted, and, to the extent feasible, indexed according to the type of records requested.

(b) The Legal Counsel or designee, shall also maintain a file open to the public, which shall contain copies of all grants or denials of appeals by the Commission. The material shall be indexed as stated in paragraph (a) of this section.

[45 FR 40605, June 16, 1980, as amended at 47 FR 46275, Oct. 18, 1982; 52 FR 4092, Feb. 18, 1987; 56 FR 29578, June 28, 1991]

§ 1610.14 Waiver of user charges.

(a) Except as provided in paragraph (b) of this section the Legal Counsel or designee and regional attorneys shall assess fees where applicable in accordance with §1610.15 for search, review and duplication of records requested. They shall also have authority to furnish documents without any charge or at a reduced charge if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(b) District directors, the Washington Field Office Director, area directors, and the librarian are hereby authorized to collect fees where applicable in accordance with §1610.15 for duplication